



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of

Daniel A. Lawlyes

Group Art Unit: 8146

Serial No.: 09/928,884

Examiner: Michael L. Lindinger

Filed: August 14, 2001

For: PARTITIONED CIRCUIT ASSEMBLY

Attorney Docket No.: DEL 0192 PA (DP-304830)

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REPLY BRIEF

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The following is a Reply Brief is filed in response to the Examiner's Answer
dated April 20, 2004.

As to the "Status of Amendments after Final", the Examiner's correction to the Applicant's statement is satisfactory. This means, of course, that there are not any related appeals or interferences.

As to the Examiner's positions regarding the Natusume and Denzene references, the Applicant believes a few additional comments are necessary.

The Examiner asserts that the recitation of "partitioned circuit element" means nothing and notes that a relay or a fuse adds functionality to a main assembly. The Applicant respectfully asserts that it is well known within the art what a circuit assembly and what a component such as a fuse is. Furthermore, the assertion that a circuit assembly implies a multi-component circuit assembly has been asserted throughout prosecution.). The clear and unambiguous limitation of the scope of the claims in these response provides a clear limitation on the claim (Omega Engineering Inc, v. Raytek Corp. 334 F.3d 1314, 67 U.S.P.Q.2d 1321, Fed. Cir.(Conn.), Jul 07, 2003).

The Examiner also asserts that recitation of the pre-amble is not a limitation but rather simple intended use. Despite the cited Omega Engineering case in addition to a continuous assertion through prosecution, the Examiner still makes this assertion. The Applicant has continuously, clearly, and unambiguously asserted that the present claims are limited to an automotive engine controller. Case law supports this limitation becoming effective on the claims through prosecution history. In addition, this is precisely a limitation that has been actively searched and reviewed by the Examiner. Hence, the Examiner's attempted arguments regarding why the cited art is not in fact different than an automotive engine controller.

Finally, the Examiner argues that Applicant gives no environmental conditions that would preclude the Denzene reference from being combined with the Natsume reference case. The Examiner argues that the Denzene reference is intended for outside use and therefore is constructed to withstand a variety of environmental condition. The Examiner appears to have missed the considerable amount of description put forth by the Applicant throughout prosecution and appeal. An automotive engine controller experiences temperatures well in excess of 150degrees farenheight. It experiences vibrations resultant from a 200 horsepower engine operated at 4000 rpms while in a vehicle traversing road surfaces that are complex, pitted, and marred. It does so, while fluxuating between these extreme conditions and still operation/cooling at least twice a day. To assert that a communications box affixed to a stationary pole that happens to be outside is comparative is disingenuous. The Applicant therefore asserts that we have provided adequate evidence that these vast differences in environment would not lend one to look at the Denzene reference when looking for improvements in the automotive controller field.

The Examiner has failed to establish a *prima facie* case of obviousness and the final rejection should be reversed.

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Dated: June 21, 2004